



OVERSIGHT AND
COMPLIANCE

OFFICE OF THE DEPUTY CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

**MEMORANDUM FOR DEPUTY GENERAL COUNSEL FOR PERSONNEL & HEALTH
POLICY, OFFICE OF GENERAL COUNSEL FOR THE
DEPARTMENT OF DEFENSE**

**SUBJECT: Judicial Proceedings Since Fiscal Year 2012 Amendments Panel – Charter Renewal
and Membership Balance Plan Approval**

The charter renewal and membership balance plan for the Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (“the Judicial Proceedings Panel”) are approved. A copy of the Judicial Proceedings Panel charter and the membership balance plan will be provided to you and the Judicial Proceedings Panel’s Designated Federal Officer (DFO) once I file the charter with the Defense Congressional Oversight Committees, the Library of Congress, and the General Services Administration.

In consultation with the Office of the General Counsel of the Department of Defense, I have affirmed that all individuals appointed to the Judicial Proceedings Panel, once approved according to Department of Defense (DoD) policies and procedures, will be appointed to serve as special government employee (SGE) members. The following points apply:

- (a) Individual members approved for appointment or renewal of appointment according to DoD policies and procedures, who are not full-time or permanent part-time Federal officers or employees, must be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as SGE members.
- (b) Each Judicial Proceedings Panel member must be notified, in writing, of the appointment decision. Any questions pertaining to these letters of notification should be referred to me or the appropriate General Counsel. At a minimum, the letters shall contain the following:
 - i. Notice that each individual's appointment to serve on the Judicial Proceedings Panel is without compensation, with the exception of reimbursement of official Judicial Proceedings Panel-related travel and per diem
 - ii. A statement that each individual is appointed to serve as an SGE member.
 - iii. An explanation of the difference between serving as an SGE or representative member.
 - iv. A summary of the applicable ethics requirements, to include whether SGE members are required to file a Confidential Financial Disclosure Report.

The Judicial Proceedings Panel’s DFO, on behalf of the DoD General Counsel (GC), is responsible for:

- (a) Attending all Judicial Proceeding Panel and subcommittee meetings for the entire duration of each and every meeting.
- (b) Ensuring the Judicial Proceedings Panel fully complies with all governing Federal statutes and regulations; DoD Instruction 5105.04, "Department of Defense Federal Advisory Committee Management Program"; policy decisions issued by the Secretary of Defense, the Deputy Secretary of Defense, or the Deputy Chief Management Officer; and procedural guidelines issued by the ACMO.
- (c) Ensuring all work performed by the Judicial Proceedings Panel and its subcommittees is based upon written tasks or terms of reference assigned to the Judicial Proceedings Panel by the Secretary of Defense, the Deputy Secretary of Defense, or the DoD GC, as the DoD Sponsor. All tasks or terms of reference are subject to public review and, at a minimum, shall include:
 - i. A description of the problem or policy to be analyzed and the DoD decision maker for the matter(s) under consideration.
 - ii. Authority for the members of the Judicial Proceedings Panel or its subcommittees to access DoD officials and DoD data that is pertinent to the matter(s) under consideration.
 - iii. A date by which the Judicial Proceedings Panel must submit its written conclusions (advice and recommendations) to the DoD decision maker.
- (d) Providing adequate support to the Judicial Proceedings Panel and its subcommittees, and ensuring the Judicial Proceedings Panel and its subcommittees are not unduly or inappropriately influenced by Federal employees or any special interest group.
- (e) Ensuring that all visits to DoD installations or facilities by members of the Judicial Proceedings Panel and its subcommittees occur in consultation with the respective Secretaries of the Military Departments or the Chairman of the Joint Chiefs of Staff, as appropriate.
- (f) Ensuring all members of the Judicial Proceedings Panel and its subcommittees are appointed according to DoD policies and procedures. No member will participate in any work performed by the Judicial Proceedings Panel or its subcommittees until all of the following have been completed: the member completes and submits to DoD all personnel and ethics paperwork required for his or her appointment; the appropriate DoD offices process the individual's personnel and ethics paperwork; and the individual takes the oath of office, if necessary, for his or her appointment.
- (g) Ensuring all DoD and other Federal Agency documents provided to the Judicial Proceedings Panel or its subcommittees are properly marked according to governing statutes, regulations, and DoD policies and procedures.

- (h) Monitoring the implementation status of any recommendation adopted by the DoD and ensuring that this information is available for future inquiries for the life of the Judicial Proceedings Panel.

Based on the Secretary of Defense memorandum of October 9, 2012, concerning advisory committees, we recommend you continually reevaluate the Judicial Proceedings Panel functions and reduce, where appropriate, the Judicial Proceedings Panel operating costs. As then-Secretary of Defense Panetta stated, “we must continually assess our advisory committees to ensure that they deliver appropriate value today and in the future as times and requirements change.”

If you should have any questions about this DoD Program, the Federal governance and compliance requirements, the charter renewal, or the membership balance plan, please contact me at 703-692-5952 or by email at james.d.freeman4.civ@mail.mil.

James D. Freeman II
Advisory Committee Management Officer